

**New Jersey State Board of Education
Minutes of the Regular Monthly Meeting
in the Conference Room on the First Floor,
100 River View Executive Plaza
Trenton, NJ**

May 5, 2004

Presiding: Arnold G. Hyndman, Ph.D., President

Secretary: Dwight Pfennig, Ed.D., Acting Commissioner

PRESENT CONSTITUTING A QUORUM:

Dr. Ronald K. Butcher
Ms. Debra Casha
Ms. Maud Dahme
Ms. Kathleen A. Dietz
Mrs. Anne S. Dillman
Mr. John A. Griffith
Mr. Samuel J. Podietz
Dr. Thelma Napoleon-Smith
Mr. Edward M. Taylor
Mrs. Roberta Van Anda

ABSENT

Ms. Margaret F. Bartlett
Dr. Orlando Edreira

CONVENING

Arnold G. Hyndman, president, State Board of Education, convened the public meeting with the reading of the resolution pertaining to the public session of the State Board meeting as it complies with the Open Public Meetings Act.

WHEREAS, the New Jersey Open Public Meetings Act was enacted to insure the right of the public to have advance notice of and to attend the meeting of public bodies at which any business affecting their interest is discussed or acted upon, and

WHEREAS, in accordance with the provisions of this act, the State Board of Education has caused notice of this meeting to be published by having the date, time and place thereof posted in the Department of Education, Secretary of State's Office and notice also having been given to the State House Press Corps, the Governor's Office and the state board agenda subscribers, now therefore be it

RESOLVED, that by adopting this resolution the State Board of Education states its intention to convene a public meeting to conduct the state's business on May 5, 2004.

STUDENT SPEAKERS

Katie Wright, the 2004 State Board student representative and a junior from Shawnee High School (Burlington County), spoke to the State Board about the course requirement for high school graduation and the issues of implementation in student scheduling. She stated that alternative methods be made available so that students could complete their practical and performing arts credits outside of the traditional school day.

Katie then introduced the student guest speaker.

Tamunoibiayi Briggs, a student from Holmdel Regional High School (Monmouth County), spoke to the State Board about the value of music education. She stated that both art and music education are currently treated as electives. She also stated that music both inspires and improves a student academically. She further stated that performing on stage has helped her develop character and a strong work ethic.

President Hyndman, on behalf of the State Board, thanked the student speakers for their presentations.

INTRODUCTIONS

Acting Commissioner Dwight Pfennig recognized Barry A. Worman, Sussex County Superintendent of Schools, who represented the county superintendents. Mr. Worman has served in this position since April 1998.

STUDENT RECOGNITION

The State Board recognized Alison Boyd, a senior from Newton High School (Sussex County), as a part of its monthly recognition program designed to honor a student or a group of students who have made a significant contribution to school, community, family or other groups.

The State Board recognized Alison for her achievements in academic programs and her accomplishments in extra-curricular activities. She has a GPA of 4.26 and is ranked third in her class. She has been named an Edward J. Bloustein Scholar, is a member of the National Honor Society, and was nominated to attend Governor's School last summer for biology. As an athlete, Alison has achieved the highest level of competition in field hockey and swimming.

On behalf of the State Board members, President Hyndman congratulated Alison for her accomplishments.

APPROVAL OF MINUTES OF THE MEETINGS

On a motion duly seconded and carried, the State Board members approved the minutes of the meetings conducted on April 7, 2004 and April 21, 2004.

PRESIDENT'S REPORT

Selection of Nominating Committee

President Hyndman announced the names of the State Board members to serve on the State Board Nominating Committee that will nominate the 2004-2005 officers of the State Board of Education. Anne Dillman will serve as chairperson, and Sam Podietz and John Griffith will serve as members. The nominating committee will give its report at the June State Board monthly public meeting and the State Board will vote on its officers at the July State Board monthly meeting.

State Action for Education Leadership

President Hyndman announced that New Jersey has received a new State Action for Education Leadership Grant (SAELP II) for \$600,000 over three years. State Board member Maud Dahme stated that through SAELP II, New Jersey will focus on school leadership standards through changes in policy, practice and procedures. Furthermore, the grant will target an alignment that will include technical assistance and a critical audit of higher education programs for school leaders by national experts. Additionally, the grant will also be utilized to study alignment of the residency and evaluation procedures for licensure as well as new standards based on the professional development requirements.

National High School Economics Competition

State Board member Roberta Van Anda reported on an honor bestowed upon the Rumson-Fair Haven High School. Through the National High School Economics Competition sponsored by the Federal Reserve System, the Rumson-Fair Haven Regional High School team won the 2004 Federal Challenge title. The competition began with over 230 teams across the nation competing for one of eight Federal Reserve District teams. The Rumson-Fair Haven Regional High School team represented the Federal Reserve Bank of New York.

State Board Administrative Code Committee Report

Maud Dahme, chair, State Board Legislative/Administrative Code Committee provided a report on the committee meeting held on March 31, 2004. Ms. Dahme stated that the purpose of the meeting was to provide an opportunity for committee members to engage in a dialogue with department staff regarding the mechanics of policy review and offer suggestions on possible revisions to the administrative code review process.

May Work Session and Public Testimony Session

President Hyndman stated that the May work session will be held on May 19, 2004 at 1:00 p.m. at the Department of Education. The items for discussion will be the New Jersey Assessment of Skills and Knowledge (NJ ASK) 3 Standard Setting Process and the New Jersey Association of Colleges for Teacher Education (NJACTE) presentation.

President Hyndman also stated that the May public testimony session will be held on May 19, 2004 at 3:00 p.m. He stated that the topics for consideration will be amendments to *NJAC* 6A:28, School Ethics Commission, amendments to *NJAC* 6A:22, Student Residency, and

NJAC 6A:8, Resolution for Early Childhood Expectations. He also stated that the May 19 public testimony session will be an open topic session in which members of the public may present testimony to the State Board on any educational topic of their choice. However, the State Board will not consider testimony on any legal cases that are currently before the State Board.

COMMISSIONER'S REPORT

National Charter Schools Week

Acting Commissioner Pfennig stated that in support of quality educational choice for New Jersey's families, Governor James E. McGreevey issued a proclamation declaring May 3-7, 2004, Charter Schools Week in New Jersey. He stated that National Charter Schools Week is co-sponsored by more than 80 grassroots organizations in 36 states and the District of Columbia. Dr. Pfennig also stated that in New Jersey many of the charter schools are hosting a variety of events to showcase their programs and to educate the public about charter schools. The Department honored New Jersey's charter schools with a luncheon and recognition ceremony at the Radisson Hotel in Princeton. He stated that the theme for this year's celebration focused on three values that charter schools contribute to public education – accountability, choice and innovation.

ITEMS FOR CONSIDERATION:

On motions duly seconded and carried, the State Board of Education took the following action:

A. Appointments

- There were no appointments.

B. Certification of Districts

- Certified for a period of seven years, the following districts pursuant to the Public School Education Act of 1975, N.J.A.C. 6A:30, Evaluation of the Performance of School Districts, and the *Manual for Evaluation of Local School Districts*.

Burlington County	Warren County
Delran	Blairstown Township
	Franklin Township
	Greenwich Township

- Also, Acting Commissioner Pfennig notified the State Board that the Department had granted certification with conditions for a period of one year to Wanaque School District and Wayne School District in Passaic County and Clark School District in Union County.

C. Educational Facilities

- Adopted the amendments pertaining to Educational Facilities proposed at *NJAC* 6A:26 pursuant to P.L. 2000 c.43; P.L. 2000 c. 72; N.J.S.A. 18A:1-1, 18A:4-15;

18A:6-9; 18A:6-27, 18A:7A-11; 18A:7A-46.1 et seq.; 18A:7f-34; 18A:7G-1 through 13, 15, 20, 26, and 31 through 37; 18A:18A-16, 18, 36 and 39; 18A:17-49 et seq.; 18A:20-1.1 et seq.; 18A:20-4.2; 18A:20-36; 18A:21-1 through 5; 18A:22-18 through 20; 18A:22-27 through 30 and 39; 18A:24-1 et seq.; 18A:33-1 seq.; 18A:46-1 et seq.; 18A:54-21; 18A:55-2; 40:55D-31; 47:1A et seq.; 52:27D-130; 18A:76-15.

D. Interdistrict Public School Choice

- Approved for publication in the *New Jersey Register* the readoption with amendments of the Interdistrict Public School Choice regulations proposed at *NJAC* 6A:12 pursuant to *NJSA* 18A:36B-1 et seq.

E. Establishing Annual Fees for State Board Public Meeting Agenda

- Adopted the resolution establishing annual fees for the State Board public meeting agenda pursuant to *NJSA* 10:4-19.

**RESOLUTION TO ESTABLISH A FEE TO
INDIVIDUALS REQUESTING ADVANCED COPIES OF
THE NEW JERSEY STATE BOARD OF EDUCATION
PUBLIC MEETING AGENDAS**

WHEREAS, pursuant to N.J.S.A. 10:4-19, the New Jersey State Board of Education is required to distribute the monthly public meeting agendas to all who request advanced copies; and

WHEREAS, the New Jersey State Board of Education is implementing a more effective and efficient method of dissemination by distributing an electronic copy of the agenda to all requesting individuals; and

WHEREAS, pursuant to N.J.S.A. 10:4-19, the New Jersey State Board of Education is permitted to establish a reasonable annual fee to each individual requesting a paper copy in lieu of an electronic copy; now therefore be it

RESOLVED, that the New Jersey State Board of Education hereby establishes an annual fee of \$25.00 for each agenda subscription to any individual requesting a paper copy of the agenda, prepaid to the New Jersey Department of Treasury and submitted to the State Board of Education Office, New Jersey Department of Education, 100 Riverview Plaza, Trenton, NJ 08625; and be it further

RESOLVED, that all requests for advanced copies of the public meeting agendas made pursuant to N.J.S.A. 10:4-19, shall terminate at midnight on December 31 of each year, but shall be renewed upon request.

F. Religious Holiday Calendar

- Adopted the resolution pertaining to the annual calendar of religious holidays for the 2004-2005 school year pertaining to NJAC 6:3-9.3(a), pursuant to NJSA 18A:36-14-16.

RESOLUTION

**THE LIST OF RELIGIOUS HOLIDAYS
PERMITTING PUPIL ABSENCE FROM SCHOOL**

WHEREAS, according to N.J.S.A. 18A:36-14 through 16 and N.J.A.C. 6:3-9, regarding pupil absence from school because of religious holidays, the Commissioner of Education, with the approval of the State Board of Education, is charged with the responsibility of prescribing such rules and regulations as may be necessary to carry out the purpose of the law; and

WHEREAS, the law provides that:

1. Any pupil absent from school because of a religious holiday may not be deprived of any award or of eligibility or opportunity to compete for any award because of such absence;
2. Pupils who miss a test or examination because of absence on a religious holiday must be given the right to take an alternate test or examination;
3. To be entitled to the privileges set forth above, the pupil must present a written excuse signed by a parent or person standing in place of a parent;
4. Any absence because of a religious holiday must be recorded in the school register or in any group or class attendance record as an excused absence;
5. Such absence must NOT be recorded on any transcript or application or employment form or on any similar form; and
6. The Commissioner, with the approval of the State Board of Education, is required to:
 - (a) prescribe such rules and regulations as may be necessary to carry out the purposes of this act; and
 - (b) prepare a list of religious holidays on which it shall be mandatory to excuse a pupil. The list, however, is to be a minimum list. Boards of education, at their discretion, may add other days to the list for the schools of their districts; and

WHEREAS, the district board of education has the right to add any bona fide religious holiday to the list for its own schools; now therefore be it,

RESOLVED that the State Board of Education adopts the following list of religious holidays for the 2004-05 school year:

September 6	Krishna Janmashtami
September 12	Day of Ascention (Isra and Miraj) (Islamic)
September 16	Feast of Trumpets (World Wide Church of God, United Church of God and Global Church of God)
September 16 - 17	Rosh Hashanah (Jewish New Year) 2 days (Jewish)
September 17	Ganesha Chaturthi (Hindu)
September 25	Day of Atonement (World Wide Church of God, United Church of God and Global Church of God)
September 25	Yom Kippur (Day of Atonement) (Jewish)
September 30 - October 1	Sukkot (First & Second Days of Tabernacles) (Jewish)
September 30 - October 6	First Day through Seventh Day of Feast of Tabernacles (World Wide Church of God, United Church of God and Global Church of God)
October 7	Eighth Day of Tabernacles (Jewish)
October 7	Last Great Day (World Wide Church of God, United Church of God and Global Church of God)
October 8	Rejoicing of the Law (Simchat Torah) (Jewish)
October 15	First of Ramadan (Islamic)
October 20	Birth of the Bab (Baha'i)
October 20 - 22	Dussera (Hindu)
October 31	Reformation Day (Protestant, Lutheran)
November 1	All Saints Day (Roman Catholic, Protestant, Lutheran)
November 10 - 12	Deepavali (Hindu)
November 12	Birth of the Baha'u'llah (Baha'i)
November 14	Eid El Fitr (End of Fasting) (Islamic) [Date is approximate with sighting of the moon]
November 24	Guru Tegh Bahadur's Martyrdom (Sikh)
November 26	Guru Nanak's Birth (Sikh)
December 8	Feast of the Immaculate Conception (Roman Catholic)
December 8	First Day of Hanukkah (Jewish)
December 15	Eighth Day of Hanukkah (Jewish)
December 25	Christmas (Christian-general)
January 1	New Year's Day
January 2	Feast of the Epiphany (Roman Catholic)
January 5	Guru Gobind Singh's Birth (Sikh)
January 6	Christmas (Armenian)
January 6	Feast of the Epiphany (Christian)
January 7	Christmas (Eastern Orthodox)

January 14	Makara Sankranti (Hindu)
January 14	New Year's Day (Eastern Orthodox)
January 19	Feast of Epiphany (Eastern Orthodox)
January 21	Feast of Sacrifice (Eid of Adha) (Islamic) [Date is approximate with sighting of the moon]
February 8	Shrove Tuesday
February 9	Ash Wednesday (Roman Catholic, Protestant)
February 9	New Year (Chinese, Korean and Vietnamese)
February 10	New Year (Islamic) [Date is approximate with sighting of the moon]
February 17	Sts' Vartanantz Day (Armenian)
March 8	Maha Shivaratri (Hindu) [Date is approximate with sighting of the moon]
March 21	Feast of Naw-Ruz (Baha'i and Iranian New Year, also Persian New Year and Heritage Day)
March 23	Lent (Eastern Orthodox)
March 24	Holy Thursday (Roman Catholic, Protestant)
March 25	Holi (Hindu)
March 25	Purim (Jewish)
March 25	Good Friday (Roman Catholic, Protestant)
March 27	Easter (Roman Catholic, Protestant)
April 9	Chandramana Yugardi (Hindu)
April 14	Souramana Yugardi (Hindu)
April 13 or 14	Vaisakhi (Sikh)
April 17	Rama Navami (Hindu)
April 21	Birthday of the Prophet Muhammad (Islamic)
April 21	First Day of Ridvan (Baha'i)
April 24	First Day of Feast of Unleavened Bread or Passover (World Wide Church of God, United Church of God and Global Church of God)
April 24 - 25	First Two Days of Passover (Jewish)
April 24	Memorial Day (Armenian)
April 28	Holy Thursday (Eastern Orthodox)
April 29	Holy Friday (Eastern Orthodox)
April 29	Ninth Day of Ridvan (Baha'i)
April 30	Seventh Day of Feast of Unleavened Bread or Passover (World Wide Church of God, United Church of God and Global Church of God)
April 30 - May 1	Seventh & Eighth Days of Passover (Jewish)
May 1	Easter (Eastern Orthodox)
May 2	Bright Monday (Eastern Orthodox)
May 2	Twelfth Day of Ridvan (Baha'i)
May 5	Ascension Day (Roman Catholic, Protestant)
May 23	Declaration of the Bab (Baha'i)
May 29	Ascension of Baha'u'llah (Baha'i)

June 9	Ascension Day (Eastern Orthodox)
June 12	Day of Pentecost (World Wide Church of God, United Church of God and Global Church of God)
June 13 - 14	Shavuot (Feast of Weeks) 2 days (Jewish)
June 16	Guru Arjun's Martyrdom (Sikh)

G. Qualifying PRAXIS II Scores for Teachers and Adoption of New Tests for School Administrators and Principals

- Discussed raising the qualifying scores for the Praxis tests required for initial New Jersey teacher and educational services licensure pursuant to *NJAC* 6A:9-8.1(a)4 and 6A:9-13.6(b)2, and discussed the adoption of new tests and establishing qualifying scores to be used to license new school administrators and principals pursuant to *NJAC* 6A:9-12.4(a)3 and 12.5(a)3.

**RESOLUTION
ESTABLISHING QUALIFYING SCORES FOR PRAXIS II; AND
ADOPTION OF NEW TESTS FOR SCHOOL ADMINISTRATORS AND PRINCIPALS**

WHEREAS, the State Board of Education has required that virtually all teacher certification candidates pass tests in specified disciplines in accordance with N.J.A.C. 6A:9-8.1, effective January 20, 2004; and

WHEREAS, the State Board of Education has required that school administrators pass a test of content knowledge directly related to the functions of school administrators in accordance with N.J.A.C. 6A:9-12.4, effective January 20, 2004; and

WHEREAS, the State Board of Education has required that principals pass a test of content knowledge directly related to the functions of principals in accordance with N.J.A.C. 6A:9-12.5, effective January 20, 2004; and

WHEREAS, Educational Testing Service (ETS) has developed The Praxis Series, Professional Assessments for Beginning Teachers, which includes Praxis II: Subject Assessment tests to assess content knowledge; and

WHEREAS, ETS has developed The School Leadership Series of tests, which include the School Leadership Licensure Assessment for entry-level principals and the School Superintendent Assessment for entry-level superintendents to assess knowledge respective to the job responsibilities; and

WHEREAS, the State Board of Education approved the department's selection of Praxis II: Subject Assessment tests and the establishment of initial cutoff scores. The initial cutoff scores were set lower than those theoretically appropriate levels with the specific intention of increasing qualifying scores over time based on consideration of a variety of factors; and

WHEREAS, the department has identified the School Leaders Licensure Assessment and the School Superintendent Assessment as the most appropriate and rigorous tests to assess a candidate's content knowledge respective to competent professional practice for New Jersey principals and school administrators; and

WHEREAS, the Department of Education has determined that the Praxis II Subject Assessment tests are valid and that the recommended increases in qualifying scores are fair and appropriate for beginning New Jersey teachers; and

WHEREAS, the Department of Education has determined, through standard setting studies completed in conjunction with ETS and New Jersey principals and school administrators, that the School Leaders Licensure Assessment and the School Superintendent Assessment are valid and that the recommended initial qualifying scores are fair and appropriate for entry level New Jersey principals and superintendents; now therefore be it

RESOLVED, that the State Board of Education hereby supports the department's selection of the School Leaders Licensure Assessment and the School Superintendent Assessment for entry level principals and school administrators; and be it further

RESOLVED, that the State Board of Education hereby acknowledges and accepts the department's establishment of the following qualifying scores:

Elementary Education: Content Knowledge (CK)	141
English Lang, Lit and Comp: CK	162
Mathematics: CK	137
Social Studies: CK	157
Physical Education: CK	148
Music: CK	153
Art: CK	150
French: CK	156
German: CK	157
Spanish: CK	159
Biology: CK Part 2	147
Chemistry: CK	134
Physics: CK	135
General Science: CK Part 1	152
General Science: CK Part 2	142
Marketing Education	630
Earth Science: CK	145
Health and Physical Education: CK	151
School Leaders Licensure Assessment	148
School Superintendent Assessment	151

H. Qualifying PRAXIS II Scores and Adoption of New Tests for New Instructional Endorsements

- Discussed establishment of the qualifying scores for new instruction endorsement pursuant to *NJAC* 6A:9-8.1 and 13.6.

**RESOLUTION
ESTABLISHING QUALIFYING SCORES FOR PRAXIS II; AND
ADOPTION OF NEW TESTS FOR NEW INSTRUCTIONAL ENDORSEMENTS**

WHEREAS, the State Board of Education has required that virtually all teacher certification candidates pass tests in specified disciplines in accordance N.J.A.C. 6A:9-8.1, effective January 20, 2004; and

WHEREAS, the State Board of Education has created new endorsements that require tests; and

WHEREAS, these new endorsements include the Elementary School with Subject Matter Preparation, Technology Education, and Theatre; and

WHEREAS, the State Board of Education has required a test for the Speech-language Specialist endorsement in accordance with N.J.A.C. 6A:9-13.6; and

WHEREAS, the State Board of Education approved the department's selection of the Speech Language Pathology Specialty Area test for the Speech-language Specialist endorsement and the establishment of an initial cutoff score. The initial cutoff scores were set lower than those theoretically appropriate levels with the specific intention of increasing qualifying scores over time based on consideration of a variety of factors; and

WHEREAS, Educational Testing Service (ETS) has developed The Praxis Series, Professional Assessments for Beginning Teachers, which includes Praxis II: Subject Assessment and Specialty Area tests to assess content knowledge; and

WHEREAS, the Department of Education conducted standard setting studies to determine the validity and the theoretically appropriate qualifying scores for Praxis II Subject Assessments and Specialty Area tests and established committees to review the results of the standard setting studies; and

WHEREAS, the Department of Education has determined that the Praxis II Subject Assessment and Specialty Area tests are valid and that the recommended increases in qualifying scores are fair and appropriate for beginning New Jersey teachers and Speech-language Specialists; now therefore be it

RESOLVED, that the State Board of Education hereby supports the department's selection of the Praxis II Subject Assessment and Specialty Area tests; and be it further

RESOLVED, that the State Board of Education hereby acknowledges and accepts the department's establishment of the following qualifying scores:

Middle School English	156
Middle School Math	152
Middle School Science	145
Middle School Social Studies	158
Theatre Specialty Area	570
Speech Language Pathology Specialty Area	550
Technology Education Specialty Area	570

I. Professional Licensure and Standards

- Discussed the amendments at *NJAC* 6A:9-8.1, 11.1 and 11.2 pertaining to the appeals process for teacher certification eligibility requirements pursuant to *NJSA* 18A:4-15.

J. School District Operations

- Discussed the readoption and recodification of amendments pertaining school district operations to *NJAC* 6A:32, pursuant to *NJSA* 9:6-8.40, 10:4-12, 18A:1-1, 18A:4-15, 18A:6-9, 18A:7A-1, 18A:7F-1, 18A:8-24, 18A:9-2, 18A:10-6, 18A:12-21, 18A:13, 18A:16-2, 18A:17-20, 18A:26-2, 18A:27-3, 18A:28-12, 18A:29-9, 18A:36-19.1, 18A:46-14, 47:1A-2, 47:3-15.

K. Early Childhood Expectations

- Discussed the resolution pertaining to the early childhood expectations pursuant to *NJAC* 6A:8.

PRESCHOOL TEACHING AND LEARNING EXPECTATIONS:
STANDARDS OF QUALITY

WHEREAS, the State Board of Education supports the Commissioner's adoption on April 17, 2000 of the *Early Childhood Education Program Expectations* ("Expectations") to serve as standards of quality for public school preschool students and programs in New Jersey; and

WHEREAS, pursuant to N.J.A.C. 6A:8-2.1(a)4, the State Board is authorized to initiate a review and readoption process for the *Early Childhood Education Program Expectations* every five years, based on recommendations by the Commissioner; and

WHEREAS, a task force was formed, comprised of Abbott district superintendents; Abbott district early childhood supervisors; curriculum content

specialists; private preschool providers; school district administrators; parents; representatives from higher education; private industry; bilingual education programs and special education programs and other early childhood experts; and

WHEREAS, the task force obtained extensive public input through focus groups; mail and electronic mail; and

WHEREAS, the task force presented revised Expectations, renamed *Preschool Teaching and Learning Expectations: Standards of Quality*, to the State Board of Education and the Commissioner; and

WHEREAS, the State Board of Education reviewed the *Preschool Teaching and Learning Expectations: Standards of Quality*, now therefore be it

RESOLVED, that the State Board of Education hereby adopts the *Preschool Teaching and Learning Expectations: Standards of Quality* to serve as standards of quality for public school preschool students and programs in New Jersey; and be it further

RESOLVED, that the State Board of Education commends the many participants who contributed to the revision of the *Early Childhood Education Program Expectations: Standards of Quality*; and be it further

RESOLVED, that the State Board of Education will initiate the review and readoption of the *Preschool Teaching and Learning Expectations: Standards of Quality* beginning in July 2009.

NEW BUSINESS

There was no new business.

LEGAL CASES

On motions duly seconded and carried, decisions in the following cases were adopted by the board as presented by legal committee members Kathleen Dietz, John Griffith, and Debra Casha, chairperson.

KATHLEEN DONVITO V. BOARD OF EDUCATION OF THE NORTHERN VALLEY REGIONAL HIGH SCHOOL DISTRICT, BERGEN COUNTY, AND LOUISE RYAN, STATE BOARD DOCKET #1-04

The State Board of Education voted unanimously to grant the motion filed by the Somerset County Educational Services Commission for leave to appear as amicus curiae in this matter.

BOARD OF EDUCATION OF THE BOROUGH OF ENGLEWOOD CLIFFS, BERGEN COUNTY V. BOARD OF EDUCATION OF THE CITY OF ENGLEWOOD, BERGEN COUNTY V. BOARD OF EDUCATION OF THE BOROUGH OF TENAFLY, BERGEN COUNTY, STATE BOARD DOCKET #81-96

On April 2, 2003, the State Board of Education determined to remove the prohibition it had placed on New Jersey's public schools in April 1990 precluding them from admitting high school age students from Englewood and Englewood Cliffs on a tuition basis or otherwise. However, in view of its responsibility to ensure that the racial imbalance at Dwight Morrow High School in Englewood was addressed, the State Board retained jurisdiction and conditioned its determination on the continued progress of the Academies@Englewood in ameliorating the racial imbalance at Dwight Morrow. To ensure that such progress continued and to avoid the possibility of regression, the State Board directed the Commissioner of Education to report formally to the State Board semi-annually every May and September as to the progress being made toward achieving racial balance in the composite student body at Dwight Morrow and to advise the State Board as to which school districts were accepting high school age students from Englewood and Englewood Cliffs on a tuition basis or otherwise.

The Commissioner has requested that submission of his semi-annual report due in May 2004 be postponed until the July 2004 meeting of the State Board. The Commissioner also has requested that the State Board's decision of April 2, 2003 be amended so as to require submission of future reports in July and November instead of in May and September. As articulated by the Commissioner, the inclusion of information concerning students who are newly admitted to the Academies@Englewood, which will not be provided to the Department of Education in time for inclusion in reports submitted in May and November, will allow him to produce a more complete report and thereby permit the State Board to assess the progress being made on the fullest basis possible. The State Board voted unanimously to grant the Commissioner's request, and it modified its decision of April 2, 2003 so as to require the Commissioner to submit his semi-annual reports at the State Board's July and November meetings.

**IN THE MATTER OF PROCEDURES FOR THE RESCISSION OF EIGHTY-FIVE COUNTY
SUBSTITUTE CERTIFICATES ISSUED PURSUANT TO N.J.A.C. 6:11-4.5, STATE BOARD
DOCKET #18-04**

This matter was before the State Board of Education by virtue of a resolution adopted by the State Board of Examiners on February 26, 2004. In that resolution, the Board of Examiners recognized that it did not have the jurisdiction to rescind county substitute certificates that had been issued by county superintendents of schools pursuant to N.J.A.C. 6:11-4.5. When it adopted the resolution, the Board of Examiners was confronting situations involving 85 individuals who had been issued county substitute certificates but about whom there were serious concerns regarding whether they should be permitted to be employed in school settings. Given these circumstances, the Board of Examiners resolved to transfer the matters in question to the State Board of Education to determine the proper procedure for reviewing matters that concern county substitute certificate holders.

Reiterating that the county substitute certificate is not a teaching certificate, the State Board stressed that individuals employed under this credential are not teaching staff members within the meaning of N.J.S.A. 18A:1-1 and that the credential is issued by the county superintendent rather than by the State Board of Examiners. Accordingly, it is the county superintendent and not the Board of Examiners that has the authority to invalidate a county substitute certificate. The State Board added that, although the authority to issue and to invalidate a county substitute certificate lies in the first instance with the county superintendent, it is the Commissioner who, with the approval of the State Board of Education, appoints the county superintendents, and, under the statutory framework, it is the Commissioner to whom the county superintendents are

responsible with respect to the performance of their duties. Further, it is the Commissioner who is the chief executive and administrative officer of the Department of Education, and it is he who has general charge and supervision of the work of the Department as well as the authority to assign duties to employees of the Department. Hence, the State Board unanimously concluded that the proper course to follow with respect to the 85 matters within the scope of the resolution adopted by the Board of Examiners was to refer those matters to the Commissioner so that he could determine the appropriate procedures for resolving them.

IN THE MATTER OF THE GRANT OF THE RENEWAL APPLICATION OF THE RED BANK CHARTER SCHOOL, MONMOUTH COUNTY, STATE BOARD DOCKET #1-02

On March 17, 2004, the Appellate Division affirmed the determination by the State Board of Education that the Red Bank board of education had not demonstrated that the fiscal impact of renewing the charter of the Red Bank Charter School jeopardized the board's ability to provide a thorough and efficient education to its students. The Court also concurred with the State Board that the Commissioner of Education was not required to provide an evidentiary hearing whenever a district board objects to the renewal of a charter. Considering the record as a whole, the Court found that it could not say that either the State Board's or the Commissioner's decision was arbitrary, capricious, or unreasonable.

However, stressing the Commissioner's obligation to ensure that no student is subjected to discrimination or segregation in the public schools, the Court found the Red Bank board's allegations concerning the charter school's enrollment and withdrawal policies "disturbing and difficult to dismiss" on the record it had before it. Consequently, the Court found that the board's charges that the charter school frequently returned minority students to the Red Bank Middle School and that its sibling preference policy resulted in the fact that an overwhelming percentage of the charter school's graduates were white warranted closer scrutiny in order to determine whether some of the charter school's practices were "worsening the existing racial/ethnic imbalance" in the Red Bank school district. Concluding that relegating the board's charges to the Commissioner's annual review would be insufficient to protect New Jersey's anti-segregation policies, the Court remanded the matter to the State Board for the Commissioner "to conduct an appropriate hearing to determine whether the Charter School's operation of the lottery, waiting list, sibling preference, and student withdrawal practices, together with any other actions following enrollment, exacerbate the district's racial/ethnic balance." The Court further directed that the Commissioner, upon completion of the hearing, determine whether any remedial action is warranted.

Pursuant to that remand, the State Board of Education voted unanimously to remand this matter to the Commissioner for such further proceedings as are necessary to fulfill the terms of the Court's decision. The State Board observed that, as found by the Appellate Division, the circumstances that have been presented require that the Commissioner fulfill his mandated responsibility to assess the racial impact of the Red Bank Charter School on the Red Bank school district so as to insure that the charter school does not have a segregative effect on the schools operated by the Red Bank board. Citing Board of Educ. of Borough of Englewood Cliffs v. Board of Educ. of Englewood, 257 N.J. Super. 413 (App. Div. 1992), aff'd, 132 N.J. 327 (1993), cert. denied, 510 U.S. 991, 114 S.Ct. 547, 126 L.Ed.2d 449 (1993), the State Board stressed that the Commissioner's constitutional obligation to insure racial balance in New Jersey's public school demands no less.

**IN THE MATTER OF THE TENURE HEARING OF ROSA SARDUY, SCHOOL DISTRICT
OF THE CITY OF PASSAIC, PASSAIC COUNTY, STATE BOARD DOCKET #3-04**

The State Board of Education voted unanimously to affirm the decision of the Commissioner of Education to dismiss the respondent, an assistant principal, from her tenured position for unbecoming conduct and insubordination. The State Board agreed with the Commissioner that the district board had demonstrated the truthfulness of four of the charges – which included allegations of unprofessional behavior and refusal to perform certain assigned duties – by a preponderance of the credible evidence and that dismissal of the respondent from her tenured employment was the appropriate penalty under the circumstances.

ADJOURNMENT

On a motion duly seconded and carried the State Board of Education adjourned its May 5, 2004 public meeting at 3:30 p.m.

Dwight Pfennig, Ed.D., Acting Commissioner
Acting Secretary, NJ State Board of Education

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